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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,907	03/13/2001	Yoshiaki Segawa	1924.65310	2790
24978	7590	10/12/2006	EXAMINER	
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			SWEARINGEN, JEFFREY R	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/804,907

Applicant(s)

SEGAWA ET AL.

Examiner

Jeffrey R. Swearingen

Art Unit

2145

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 26 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-5 and 7.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
JASON CARDONE  
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: The new amendments to claim 3 at least require further search and consideration as does the newly added claim 7 and the substantive amendments to the other claims.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive.

The Office is further clarifying the last rejection, which Applicant may have not fully understood.

The Name Binding Protocol in Donahue accomplishes the exact functions of the reply unit as claimed by Applicant. It was pointed out in the rejection that Applicant failed to claim a correlation between the request issued by the external device and the reply information. This enabled the examiner to broadly construe the claim, and the Name Binding Protocol met those broadly construed limitations.

Applicant argued that Donahue failed to teach reply information is stored in a memory. Failing a more specific claimed limitation, reply information is construed as data. All data must be stored prior to transmission, or the data cannot be transmitted over a network.

The grammatical nature of the claim is what contributed to this difference of reading between Applicant and the Examiner. The Examiner is reading the "transmitting reply information" as "corresponding to a request issued by the communication device", not transmitting "reply information corresponding to a request issued by the communication device". Applicant gave two possible readings of the claim, and the Examiner used the broader reading of the claim as directed by the MPEP, which says the broadest interpretation must be used during examination to prevent misreading of claims during litigation (paraphrased, see MPEP 2111).

Applicant argued the reply destruction unit destroyed reply information stored in the memory. When Donahue's Name Binding Protocol breaks a connection, it is inherent that it releases the memory it is not using or it would become a memory leak slowing down the computer. The computer is free then to erase that portion of memory and replace it with something else.

Paragraph 1 on page 6 did not address the amendments to claim 3 as asserted by Applicant, but this issue is moot since claim 1 continues to be rejected.

The final rejection was responsive, as it addressed all substantive arguments to the extent that they could be maintained. The Examiner specifically showed Applicant the failure to claim a correlation between the request issued by the external device and the reply information, which allowed for a broader reading of the claims and addressed the majority of Applicant's arguments.